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BY:----------

May 26, 2004

Election Assistance Commission
Hon. DeForest B. Soaries, Jr., Chairman
1225 New York Avenue, N.W. Suite 1100
Washington, DC 20005

Dear Chairman Soaries:

As requested by your office, I am enclosing a copy of the HAVA Administrative Complaint procedure adopted by the State of Georgia pursuant to section 253 of the Help America Vote Act. If you have any questions regarding this submission, please feel free to contact Kathy Rogers, the Director of Elections Administration at 404-656-2871 or my self at 404-657-5352.

Sincerely,

Clifford D. Tatum
Assistant Director of Legal Affairs
State Elections Division

Encs.

590-8-2-.01. Administrative Complaint Procedure for Violations of Title III of the Help America Vote Act of 2002.

(1) Any person who believes that a violation of any provision of Title III of the Help America Vote Act of 2002 (Public Law 107-252; 42 U.S.C. 15301, et seq.) has occurred, is occurring, or is about to occur may file a complaint with the Secretary of State. Such complaint shall be open to inspection by the public during business hours upon reasonable notice.

(2) Such complaint shall be in writing and shall be signed and sworn to by the person making the complaint and shall be properly notarized in accordance with state law. The complaint shall be delivered to and served upon the Secretary of State as the chief state election official in person, by U.S. Mail, or by guaranteed overnight delivery.

(3) The Secretary of State shall investigate the allegations of such complaint. If more than one complaint is filed concerning the same alleged violation, the Secretary of State may consolidate such complaints for investigation.

(4) If the complainant requests, the Secretary of State or a designee thereof shall conduct a hearing on the allegations of the complaint. Such hearing may be by telephone, conference call, or in person and shall be recorded.

(5) If the Secretary of State or a designee thereof determines that such complaint is unfounded, the Secretary of State may dismiss the complaint and notify the complainant of her decision. The Secretary of State shall make the results of her investigation into the complaint available for public inspection during normal business hours upon reasonable notice after the matter has been resolved

(6) The Secretary of State or designee thereof shall make a determination of the validity of the complaint within 90 days following the date on which the complaint is received by and filed with the Secretary of State unless the complainant agrees to an extension of such time period.

(7) If the Secretary of State or designee thereof determines that such complaint is valid, the Secretary of State shall take all necessary

and appropriate actions within her authority to address the violation; and

(8) If the Secretary of State or designee thereof does not render a final determination on a complaint filed pursuant to this rule within 90 days after the complaint is filed, or within any extension period to which the complainant has agreed, the Secretary of State or designee thereof will, on or before the third business day after the final determination was due to be issued, initiate proceedings for alternative dispute resolution;

(a) To facilitate alternative dispute resolution, the Secretary of State shall maintain a list of qualified independent professionals who are capable of acting as a mediator, from which the Secretary of State or designee thereof and the complainant shall each choose one mediator to review the case.

(b) The Secretary of State or designee thereof shall designate in writing to the complainant the name of a mediator from the list referenced in section (a) to serve on an alternative dispute resolution panel (resolution panel) to review the complaint.

1. If proceedings for alternative dispute resolution are initiated pursuant to this paragraph, not later than 3 business days after the complainant receives such a designation from the Secretary of State or designee thereof, the complainant shall designate in writing to the Secretary of State or designee thereof the name of a second mediator. If the complainant fails to designate a mediator within the time allowed above, the sole mediator shall review the record from the hearing and make a final recommendation based on the submitted record. Not later than 3 business days after such a designation by the complainant, the two mediators so designated shall select a third mediator to complete the resolution panel. If the complainant fails to designate a mediator within the time allowed above, the sole mediator shall review and dispose of the matter without selecting a second or third mediator.

2. The mediator or resolution panel may review the record compiled in connection with the complaint, including, without limitation, the investigative file on the matter, the audio recording of the hearing, any transcript of the hearing and any briefs or memoranda submitted by the parties but shall not receive any additional testimony or evidence to resolve the matter.

3. The mediator or resolution panel by a majority vote, shall after reviewing the record referenced above, provide a recommendation to the Secretary of State not later than 50 days after the final determination of the Secretary of State was due. This period for issuing a written recommendation will not be extended.

4. Upon receipt of the recommendation from the mediator or resolution panel, the Secretary of State or designee thereof shall issue a final order pursuant to the authority granted under O.C.G.A. 21-2-50.2(c), but such remedy shall not exceed the remedies available under Title III of the Help America Vote Act of 2002.

5. The final order of the Secretary of State or designee thereof will be:
(a) Mailed to the complainant, each respondent and any other person who requested in writing to be advised of the final resolution;
(b) Posted on the website of the Secretary of State; and
(c) Made available by the Secretary of State, upon request by any interested person.

6. A final determination by the Secretary of State or designee thereof is not subject to appeal in any state or federal court.
Authority O.C.G.A. §§ 21-2-1; 21-2-50.2.